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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/731,178	12/06/2000	Steven D. Goedeke	P-8896	9273

27581 7590 06/23/2005

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EXAMINER	
OPSASNICK, MICHAEL N	

ART UNIT	PAPER NUMBER
2655	

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/731,178	GOEDEKE ET AL.	
	Examiner	Art Unit	
	Michael N. Opsasnick	2655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 March 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Specification

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1,4-9,13,15-22,24,26,27,30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jeffery D. Snell (U.S. Patent 5,792,204, issued August 11, 1998) in view of Rozak et al (5761641).

As per claims 1, 4-6, 9, 19, 20, 26, and 30, Snell teaches a system interfacing with an implanted medical device (col. 3, lines 61-65), with:

- microphone input of a voice command to a speech recognizer (col. 3, lines 5-7);
- the speech recognizer matching the input voice command to the subset of commands and converting the recognized voice command into a selection code (control program instructions, col. 4, line 5),
- said commands along with a set of control signals being stored in memory (col. 5, line 67 thru col. 6, line 2; col. 4, lines 5-6), and
- generating a control signal therefrom to execute the commands (col. 3, lines 9-13; col. 5, lines 4-6);
- a display device (col. 4, line 62); and
- displaying received data generated by the implanted medical device in response to the execution of the command as well as implanted medical device state data (col. 4, lines 62-65 and col. 5, lines 3-13).
- interfacing with an implanted medical device (col. 3, lines 61-65), with a microphone input of a voice command to a speech recognizer (col. 3, lines 5-7); control program instructions, col. 4, line 5.

Snell does not explicitly teach displaying the selectable subset of commands as a function of the device. Rozak et al (5761641) teaches context-sensitive commands, and to display them for user selection by voice (or, of course, by keyboard or mouse) from a displayed menu (Rozak et al (5761641), Fig. 9, col. 3 line 55 – col. 4 line 19 -- commands are created that are context

specific and application specific). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Snell with context specific available commands because it would advantageously reduce user redundant activity by using context specific commands (Rozak et al (5761641), col. 1 lines 34-40).

As per claim 7, Snell teaches a pacing system analyzer (col. 4, lines 26-27 and 39).

As per claim 8, Snell teaches a programming unit adapted to interrogate and program the implanted medical device (col. 4, lines 62-64 and col. 5, lines 14-19).

As per claims 13, 24, and 27, Snell teaches adapting or configuring the speech recognizer and the processor for new commands or to a new user generating appropriate recognition data, to be stored in the memory arrangement (stored replaced command instructions and data to be used therefor, respectively, col. 5, lines 14-19 and col. 6, lines 6-9).

As per claims 15-17 and 22, Snell teaches an audio signal confirming the receipt of a voice selected command or device state to inform the user or for user confirmation (col. 6, lines 61-64; col. 7, lines 4-14 and 58-62; for suggestion of similarly outputting device state *cf.* col. 5, lines 7-9).

As per claim 18, Snell teaches medical data processing from the implantable device via a communications network (col. 5, lines 41-47).

As per claim 21, Snell teaches validating the stored command speech sets to see whether the voice command is understood (col. 9, lines 6-14).

5. Claims 2,3,23,29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jeffery D. Snell (U.S. Patent 5,792,204, issued August 11, 1998) in view of Rozak et al (5761641) in further view of Smith et al (5898459).

As per claims 2, 3, 23, and 29, the combination of Snell (U.S. Patent 5,792,204, issued August 11, 1998) in view of Rozak et al (5761641) does not specifically teach a bandpass amplifier to reject ambient background signals from the microphone. However, Smith et al (5898459) teaches band-pass filtering the ambient noises from a microphone input (Smith et al (5898459), col. 8 lines 50-53). Therefore, it would have been obvious to one of ordinary skill in the art of acoustic processing to modify the teachings of Snell (U.S. Patent 5,792,204, issued August 11, 1998) in view of Rozak et al (5761641) with bandpassing the signal from the microphone because it would advantageously remove unwanted ambient noise signals (Smith et al (5898459), col. 8 lines 53-58).

6. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jeffery D. Snell (U.S. Patent 5,792,204, issued August 11, 1998) in view of Rozak et al (5761641) in further view of Van Schnyndel (5940118).

As per claims 10-12, the combination of Snell (U.S. Patent 5,792,204, issued August 11, 1998) in view of Rozak et al (5761641) does not explicitly teach an unidirectional microphone to be steered by the user of his medical data processing instrument. However, Van Schnyndel (5940118) teaches using a steerable microphone system in the direction of the speaker (abstract). Therefore, it would have been obvious to one of ordinary skill in the art of microphonic structures to modify the combination of Snell (U.S. Patent 5,792,204, issued August 11, 1998) in view of Rozak et al (5761641) with directional microphone steering because it would advantageously improve upon the acoustical pickup of the speaker (Van Schnyndel (5940118), col. 1 lines 20-29).

7. Claims 14,25, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jeffery D. Snell (U.S. Patent 5,792,204, issued August 11, 1998) in view of Rozak et al (5761641) in further view of Maes (6073101).

As per claims 14, 25, and 28, the combination of Snell (U.S. Patent 5,792,204, issued August 11, 1998) in view of Rozak et al does not teach explicitly teach validating the user to limit the various levels of commands that a user is authorized to give, however, Maes (6073101) teaches limiting the access/command control based on user authorization (abstract; col. 4 line 53 – col. 5 line7). Therefore, it would have been obvious to one of ordinary skill in the art of user control to modify the combination of Snell (U.S. Patent 5,792,204, issued August 11, 1998) in view of Rozak et al with user access control because it would advantageously allow for smoother security and access control (Maes (6073101), col. 1 lines 10-15) across a variety of applications (Maes (6073101), col. 2 line 64 – col. 3 line 10).

Response to Arguments

8. Applicant's arguments filed 3/21/2005 have been fully considered but they are not persuasive. As per applicant's applicant's arguments on the first half of page 11 of the fax submitted on 3/21/2005, examiner argues that the Snell reference teaches the interfacing to an implanted medical device. The Rozak reference is introduced to teach the concept of voice selected context sensitive commands. Furthermore, the arguments presented on the first half of page 11 of the submitted fax on 3/21/05 fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Applicant makes a general sweeping statement that neither Snell or Rozak, alone or in combination, teach the referred to claim language found on page 11 of the fax dated 3/21/05. With respect to the arguments found in paragraph 5 of page 11 of the fax submitted on 3/21/05, examiner notes again that the Snell reference teaches the interfacing to an implanted medical device. The Rozak reference is introduced to teach the concept of voice selected context sensitive commands.

On top of page 12 of the fax dated 3/21/05, applicant accuses the examiner of improperly and incorrectly dismissing the controlling case law as dealing with "unexpected results". Examiner disagrees and notes that it is the applicant that is basing the hindsight reasoning argument on unexpected results (noting that on page 14 of the fax submitted on 12/15/04, quoting lines 16-20, "discount the value of combining various existing features or principles in a

new way to achieve a new result – often the very definition of invention" → achieving a 'new result' is equivalent to saying 'an unexpected result'). Applicant's further argue that the examiner's discussion of "unexpected results" is irrelevant; examiner notes that the applicant's representative himself raised the issue of unexpected results on page 14 of the fax submitted on 12/15/04. It is now not clear as to the position of the applicant with respect to unexpected results (relevancy was argued in the fax dated on 12/15/04, and now has been argued by the applicant to be irrelevant in the fax dated 3/21/05). In the next to last paragraph on page 12 of the fax dated on 3/21/05, applicant again argues: 1) obviousness has not been established; 2) that the asserted rejection are improper and must be withdrawn and 3) applicant has not asserted nor argued "unexpected results". A prima facie case of obviousness has been established as noted in the rejection above; the rejections are not improper; and again, applicant's representative again contradicts himself by stating that "unexpected results" are not argued, but yet presented on page 14 of the fax dated 12/15/04. Lastly, applicant alleges that the examiner has not made a correct statement of the law or a specific case cited (examiner assumes this is in reference to the underlined phrases on page 7 of the "response to arguments" dated 1/19/2005 → examiner notes that case law is cited (In re McLaughlin, and that passage is found in the MPEP → 707.07(f) [R-1] , form paragraph 7.37.03).

Conclusion

9. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872 9314,

(for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

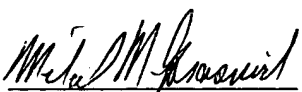
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (571)272-7623, who is available Tuesday-Thursday, 9am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Wayne Young, can be reached at (571)272-7582. The facsimile phone number for this group is (571)272-7629.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (571) 272-2600, the 2600 Customer Service telephone number is (571)272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mno
6/21/05



Michael N. Opsasnick
Examiner
Art Unit 2655